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LESSONS FROM THE PREKINDERGARTEN MOVEMENT

*Clare Huntington**

I am deeply grateful for the ambition of Nancy Dowd's book, *Reimagining Equality*.¹ Professor Dowd offers a powerful and essential vision for addressing the entrenched inequalities that pervade our society. And she is unapologetic about the breadth and depth of change needed to achieve this vision. I do not want to distract from her inspiring call for a New Deal for Children² by introducing questions about political feasibility, but thinking about what is possible in the here and now is a useful place to begin the conversation about systemic change.

So, what *is* possible in this era of Trump? Not much. Let's not forget that the Trump Administration is cutting back, every way possible, on state support for families. Consider the invitation from the Center for Medicare and Medicaid Services to states, authorizing work requirements for recipients of Medicaid.³ This policy may play well politically, but it does not accord with the reality facing many low-income families.⁴ Or the Trump Administration's proposal to

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1. *See generally* NANCY E. DOWD, *REIMAGINING EQUALITY: A NEW DEAL FOR CHILDREN OF COLOR* (2018).

2. *See id.* at 136–66.

3. Letter from Brian Neale, Dir., Ctr. for Medicare & Medicaid Servs., to State Medicaid Dir. (Jan. 11, 2018), <https://www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf> [<https://perma.cc/ZF66-S6RF>] (allowing states to impose work requirements on some recipients); *see also* Rachel Garfield et al., *Understanding the Intersection of Medicaid and Work: What Does the Data Say?*, KAISER FAM. FOUND. (Aug. 8, 2019), <https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work-what-does-the-data-say/> [<https://perma.cc/A9D2-G5Y9>] (describing the aforementioned policy, the states that have applied for and received the waiver, and the lawsuits challenging the state plans).

4. *See* Garfield et al., *supra* note 3 (presenting data showing that most nondisabled adults who receive Medicaid are employed and explaining why the

alter the eligibility rules for SNAP benefits,⁵ arguing that SNAP and similar programs are supposed to be “A Second Chance, Not A Way of Life.”⁶ Or consider the Administration’s redefinition of the “public charge” element in immigration law, which makes it harder for many noncitizens who receive public benefits, including Medicaid and SNAP, to receive a green card.⁷ In short, the policies of this administration could not be further from a New Deal for Children.

This lack of public support for low-income families is not new, even if the recent policy changes are particularly draconian. As Maxine Eichner and others have written about at length,⁸ and as Professor Dowd details in her book,⁹ the United States makes limited investments in families, particularly as compared with other wealthy countries.¹⁰ This lack of investment is particularly striking for early

remainder are not and how the work requirements are unlikely to result in increased employment, and instead will result in the loss of Medicaid benefits).

5. See Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program, 84 Fed. Reg. 35570 (July 24, 2019) (proposing to limit automatic eligibility for SNAP for several categories of recipients). There is a concern that the new rule, if finalized, would also affect the eligibility of school children for free and reduced school meals, because a child whose family receives SNAP benefits is automatically eligible for subsidized meals at school. See Lola Fadalu, *500,000 Children Could Lose Free School Meals Under Trump Administration Proposal*, N.Y. TIMES (July 30, 2019), <https://www.nytimes.com/2019/07/30/us/politics/free-school-meals-children-trump.html?action=click&module=Latest&pgtype=Homepage> [<https://perma.cc/TL55-G2GX>].

6. See Press Release, U.S. Dep’t of Agric., USDA to Restore Original Intent of SNAP: A Second Chance, Not A Way of Life (Dec. 20, 2018), <https://www.usda.gov/media/press-releases/2018/12/20/usda-restore-original-intent-snap-second-chance-not-way-life> [<https://perma.cc/D9KQ-LEAG>].

7. See Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41292 (Oct. 15, 2019).

8. See Maxine Eichner, *The Privatized American Family*, 93 NOTRE DAME L. REV. 213, 252–59 (2017); see also MARTHA ALBERTSON FINEMAN, *THE AUTONOMY MYTH: A THEORY OF DEPENDENCY* (2004); Barbara Bennett Woodhouse, *A World Fit for Children Is a World Fit for Everyone: Ecogenerism, Feminism, and Vulnerability*, 46 HOUS. L. REV. 3 (2009).

9. See DOWD, *supra* note 1, at 42–47 (describing the failure of the United States, unlike other countries, to ameliorate poverty and invest in both family functioning and education).

10. Many wealthy countries mediate the impact of poverty on child development by providing universal health care, including prenatal care, home visiting for new parents, heavily subsidized childcare and preschool, and, most fundamentally, a child allowance, which ensures families have money to care for children. The United States does offer prenatal care and health care to virtually all low- and moderate-income citizens, as well as some food assistance and income support, largely through the Earned Income Tax Credit. But in most other areas, including housing, childcare, preschool, and basic income guarantees, government support for families falls far short of the need. For a description of this neoliberal approach to family policies and its historical roots, see Eichner, *supra* note 8, at 252–59. For an argument about why

childhood. For every public dollar spent to support families and foster the development and education of children, only seven cents is spent on a child from birth to age three.¹¹ Given these policies, it is unsurprising to read Professor Dowd's description of the poor educational and health outcomes for low-income children and particularly low-income Black boys.¹²

Despite these past and ongoing failures, I want to focus on one bright spot: increased public support for prekindergarten. I have written about this topic at length elsewhere,¹³ but I raise it again because I think the broad-based political support for prekindergarten holds lessons — some encouraging, some cautionary — for realizing Professor Dowd's vision of a more just and equal society.

During the last three decades, Congress has appropriated significantly more funding for the early childhood education program Head Start, including substantial increases in the last few years.¹⁴ The most interesting change, however, is at the state level. States increased preschool funding by 47% between 2012 and 2017, with a

the state should support families, see generally MAXINE EICHNER, *THE SUPPORTIVE STATE* (2010).

11. See Charles Bruner, *Early Learning Left Out, Building an Early-Learning System to Secure America's Future*, CHILD & FAM. POL'Y CTR. 5 (Oct. 2013), <https://files.eric.ed.gov/fulltext/ED558052.pdf> [https://perma.cc/ZPS7-6PQQ] (estimating the total public expenditures on education, income security, health care, nutrition, housing, and social services); Sara Edelstein et al., *How Do Public Investments in Children Vary with Age? A Kids' Share Analysis of Expenditures in 2008 and 2011 by Age Group*, URB. INST. 5 (Oct. 2012), <https://www.urban.org/sites/default/files/publication/25911/412676-How-Do-Public-Investments-in-Children-Vary-with-Age-A-Kids-Share-Analysis-of-Expenditures-in-and-by-Age-Group.PDF> [https://perma.cc/LA3J-675G] (estimating investments from outlays and tax expenditures). The support available to non-citizen families, especially undocumented individuals, is far more limited. Government-subsidized health care, for example, is available only for children who are citizens or legally permanent residents under specified circumstances; it is unavailable for undocumented children. See Amanda Salami, *Immigrant Eligibility for Health Care Programs in the United States*, NAT'L CONF. ST. LEGISLATURES (Oct. 19, 2017), <http://www.ncsl.org/research/immigration/immigrant-eligibility-for-health-care-programs-in-the-united-states.aspx> [https://perma.cc/M6GA-CLPP].

12. See DOWD, *supra* note 1, at 9–27, 42–50.

13. See Clare Huntington, *Early Childhood Development and the Replication of Poverty*, in *HOLES IN THE SAFETY NET: FEDERALISM AND POVERTY* (Ezra Rosser ed., 2019).

14. See OFFICE OF HEAD START, HEAD START FEDERAL FUNDING AND FUNDED ENROLLMENT HISTORY, <https://eclkc.ohs.acf.hhs.gov/sites/default/files/pdf/head-start-federal-funding-funded-enrollment-history-eng.pdf> [https://perma.cc/47LJ-N9PL] (last visited Jan. 2, 2020).

total investment of \$7.5 billion in the 2016–17 school year.¹⁵ As a result of the increased public funding, 44% of all four-year-olds in the 2016–17 academic year were enrolled in publicly funded preschool.¹⁶

The story is even more promising when we look at individual states, because there are significant and politically surprising state variations.¹⁷ Typically, red states invest far less money in family-support than blue states.¹⁸ In the area of prekindergarten, however, both red and blue states have embraced prekindergarten as a critical tool for combatting poverty. In the 2016–17 school year, five states enrolled 80% or more of four-year-olds in a program that receives state or federal funds: the District of Columbia (88%), Florida (87%), Oklahoma (84%), Vermont (85%), and Wisconsin (80%).¹⁹ An additional eight states enrolled at least 50% of four-year-olds in such a program: Iowa (69%), West Virginia (67%), Georgia (64%), New

15. See LOUISA DIFFEY ET AL., EDUC. COMM'N OF STS., STATE PRE-K FUNDING 2016–17 FISCAL YEAR: TRENDS AND OPPORTUNITIES 9 (2017), <https://www.ecs.org/wp-content/uploads/State-Pre-K-Funding-2016-17-Fiscal-Year-Trends-and-opportunities-1.pdf> [<https://perma.cc/F2L8-SY6R>].

16. See ALLISON H. FREIDMAN-KRAUSS ET AL., NAT'L INST. FOR EARLY EDUC. RES., THE STATE OF PRESCHOOL 2017 11 (2018), <http://nieer.org/wp-content/uploads/2018/05/State-of-Preschool-2017-Full.5.15.pdf> [<https://perma.cc/SM9W-252V>]. This is a significant increase from the 2001–02 academic year, when only 31% of four-year-olds were in publicly funded preschool. See *id.*

17. States have long diverged in their use of Head Start funds, and thus a variation already existed. See W. STEVEN BARNETT & ALLISON FRIEDMAN-KRAUSS, NAT'L INST. FOR EARLY EDUC. RES., STATE(S) OF HEAD START 31 (2016), http://nieer.org/wp-content/uploads/2016/12/HS_Full_Reduced.pdf [<https://perma.cc/XDF4-QGCM>]. But with some states making enormous new investments, the differences are even starker.

18. The maximum cash benefit under the Temporary Assistance to Needy Families program, for example, is \$170 per month in Mississippi compared to \$618 in Massachusetts. See GENE FALK, CONG. RES. SERV., RL 32760, THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BLOCK GRANT: RESPONSES TO FREQUENTLY ASKED QUESTIONS 8 (2019). And the state-level Earned Income Tax Credit in New Jersey pays 35% of the federal tax credit, but in Louisiana, the state program pays only 3.5% of the federal tax credit. *Tax Credits for Working Families: Earned Income Tax Credit (EITC)*, NAT'L CONF. ST. LEGISLATURES (Mar. 25, 2019), <https://www.ncsl.org/research/labor-and-employment/earned-income-tax-credits-for-working-families.aspx> [<https://perma.cc/Z76Y-3Q2U>]. Many Other red states typically provide either no program or only a very limited state-level EITC. See *id.*

19. See FREIDMAN-KRAUSS ET AL., *supra* note 16, at 26. The news is not as good in other states, but these states are also mixed politically. See *id.* at 25–26 (providing enrollment figures in a program that receives state or federal funds, for four-year-olds: Minnesota (20%), Washington (19%), Massachusetts (18%), Missouri (18%), Indiana (16%), Nevada (15%), Hawaii (14%), New Hampshire (14%), Idaho (13%), and Utah (12%); noting that seven states have no dedicated state funding for preschool: Idaho, Montana, New Hampshire, North Dakota, South Dakota, Utah, and Wyoming).

York (60%), Texas (59%), New Mexico (55%), Arkansas (50%), and South Carolina (50%).²⁰ Some of these states have made enormous enrollment increases since 2002: 77 percentage points in Florida, 67 percentage points in Vermont, and 59 percentage points in Iowa.²¹ In addition to enrolling more children in prekindergarten, many states — again, both red and blue — are also investing in the quality of prekindergarten.²²

So, what can we learn from this encouraging increase in state support for prekindergarten and how does it relate to Professor Dowd's book? To begin, don't get too excited. The state-level preschool investments are not part of a broader anti-poverty strategy for children and families that addresses health care, income supports, and education — all critical elements of the New Deal for Children.²³ In Oklahoma, for example, despite the investments in early childhood development, the state has not expanded Medicaid under the Affordable Care Act,²⁴ and it has only a small, nonrefundable Earned Income Tax Credit (EITC).²⁵ West Virginia is one of the few red states that did expand Medicaid, enrolling 166,000 people under the

20. *See id.* The news is not as good in other states, but these states are also mixed politically. *See id.* at 9. The enrollment figures are much lower for three-year-olds. *See id.* (only 16% of all three-year-olds were enrolled in a program receiving federal or state funds in the 2016–17 academic year, with considerable variation at the state level: 38 states enrolled fewer than 10% of their three-year-olds; the District of Columbia and Vermont each enrolled 66%; Arkansas enrolled 35%, Illinois enrolled 30%, New Jersey enrolled 29%, Mississippi enrolled 28%, New Mexico enrolled 22%, and Kentucky, Louisiana, and West Virginia each enrolled 20%).

21. *See id.* at 25.

22. *See id.* at 10 (four states — Alabama, Mississippi, Rhode Island, and West Virginia — met all of the quality benchmarks in 2017, followed closely by Arkansas, Kentucky, Maine, Michigan, New Mexico, North Carolina, Oklahoma, Tennessee, Washington, Louisiana, and Oregon); *id.* at 29 (noting spending variations, which closely reflect the traditional red/blue divide: District of Columbia (\$17,000 per student), New Jersey (\$12,200), Oregon (\$9500), Washington (\$8200), Connecticut (\$7800), Delaware (\$7400), and Pennsylvania (\$7300) as compared with South Carolina (\$3000), Florida (\$2300), and Mississippi (\$2400); noting, however, that West Virginia ranked 10th in the nation, spending \$6500 per student).

23. *See* DOWD, *supra* note 1, at 136–66.

24. *See Status of State Medicaid Expansion Decisions: Interactive Map*, KAISER FAM. FOUND. (Sept. 20, 2019), <https://www.kff.org/medicaid/issue-brief/status-of-state-medicaid-expansion-decisions-interactive-map/> [https://perma.cc/HWU7-SGDC]. *But see* Associated Press, *New Campaign Launched to Expand Medicaid in Oklahoma*, MOD. HEALTHCARE (June 14, 2019, 11:32 AM), <https://www.modernhealthcare.com/medicaid/new-campaign-launched-expand-medicaid-oklahoma> [https://perma.cc/5FQW-RNNP] (describing the efforts to put the expansion question to a statewide vote).

25. *See* Nchako & Cai, *supra* note 18 (noting that Oklahoma pays only 5% of the federal amount and the tax credit is nonrefundable).

expansion,²⁶ but it does not have an EITC.²⁷ And although Mississippi enrolls 36% of all four-year-olds in state or federally funded preschool,²⁸ it has the lowest cash assistance amounts in the country under the Temporary Assistance to Needy Families program.²⁹ Similarly, the prekindergarten investments do not appear to be part of an effort to invest more broadly in K–12 education.³⁰

Even with these caveats, there may be useful lessons to learn from the experience of rising state support for preschool that could be applied to the New Deal for Children. As David Kirp chronicles in *The Sandbox Investment*, multiple factors contributed to the dramatic increase in state support. First, research from several fields demonstrated the importance of high-quality preschool. Studies established the profound and long-lasting benefits of preschool, which were measurable into adulthood.³¹ Economists demonstrated the cost-effectiveness of investing in preschool, showing states that investments in early childhood education lead to reduced spending in multiple areas, including education, social welfare, and criminal justice.³² And research by neuroscientists explained the brain science underlying early childhood development, demonstrating why early intervention is so powerful.³³

26. See Louise Norris, *West Virginia and the ACA's Medicaid Expansion*, HEALTHINSURANCE.ORG (Dec. 4, 2018), <https://www.healthinsurance.org/west-virginia-medicaid/> [https://perma.cc/97F5-JZY3] (“165,917 West Virginians are enrolled in Medicaid Expansion as of Monday, March 26, 2018.”).

27. See Nchako & Cai, *supra* note 18.

28. See FREIDMAN-KRAUSS ET AL., *supra* note 16, at 26.

29. See FALK, *supra* note 18, at 8.

30. See Michael Leachman et al., *A Punishing Decade for School Funding*, CTR. ON BUDGET & POL’Y PRIORITIES (Nov. 2017), <https://www.cbpp.org/research/state-budget-and-tax/a-punishing-decade-for-school-funding> [https://perma.cc/EP9B-GF7Z] (describing budget cuts in K–12 education, including in Oklahoma and West Virginia).

31. See DAVID L. KIRP, *THE SANDBOX INVESTMENT: THE PRESCHOOL MOVEMENT AND KIDS-FIRST POLITICS* 50–75 (2007) (summarizing this research, which shows that preschool reduces the use of special education and grade repetition, improves educational outcomes, including an increased likelihood that the participants will attend a four-year college, fosters social-emotional development, reduces rates of teen and adult incarceration, reduces rates of teen pregnancy, improves skilled-employment rates, and improves earnings as adults; consistent with the criticism of some skeptics, there is evidence that cognitive benefits fade over time, but there is also solid evidence that despite this weakening, the programs have a long-lasting positive impact on educational progress and attainment; finally, there is evidence that the long-term benefits are not limited to small, demonstration programs).

32. See *id.* at 76–92.

33. See *id.* at 93–135 (summarizing this research, which focuses on the plasticity of young brains and the impact of adult-child interactions).

Second, large foundations provided funding for advocacy, research, and communications for the prekindergarten movement. Both the Pew Charitable Trusts and the Packard Foundation made universal preschool a funding priority in the early 2000s.³⁴ Pew began with several states — both conservative and liberal — and identified receptive policymakers and advocacy groups willing to collaborate; they also actively courted support from the business community.³⁵ The Packard Foundation concentrated its efforts on prekindergarten in California, and it used many of the same strategies, recruiting a broad range of supporters, from police chiefs to teachers' unions, and focusing on messaging.³⁶

Third, state-level politics were critical to the development of high-quality prekindergarten programs. Each state that has embraced prekindergarten has its own story. In Oklahoma, the pioneer of universal prekindergarten, advancing prekindergarten was a stealth effort, quietly started with changes in school financing formulas that led to the creation of programs, which parents experienced and then widely supported.³⁷ In Texas, a similarly low-key approach, based on bipartisan outreach and clear evidence about cost savings, led to support for prekindergarten.³⁸ In California, it was the opposite experience: a widely touted although ultimately unsuccessful ballot initiative for universal prekindergarten paved the way for a more modest but foundational program.³⁹ In Florida, a citizen-led ballot initiative enshrined universal prekindergarten in the state constitution, but the effort did not garner broad-based support from legislators, and the legislature has failed to allocate sufficient funds to create high-quality programs.⁴⁰ In many states, high-profile political figures supported the effort, such as Illinois governor Rod Blagojevich, who was an early supporter of universal prekindergarten,⁴¹ and California governor Arnold Schwarzenegger, who embraced prekindergarten as part of his policy agenda.⁴² Advocates across the country intentionally emphasized

34. *Id.* at 152, 158, 161.

35. *Id.* at 158, 161–62.

36. *Id.* at 163–65.

37. *Id.* at 182–83.

38. *Id.* at 198–207.

39. *See id.* at 207–19.

40. *See id.* at 186–98.

41. *See id.* at 22–23.

42. *See id.* at 218–19.

prekindergarten as a bipartisan issue.⁴³ Politicians framed the issue in deliberately bipartisan language. In Oklahoma, for example, local leaders said “[t]his isn’t a liberal issue This is investing in our kids, in our future. It’s a no-brainer.”⁴⁴

Finally, prekindergarten has many enthusiasts. The public strongly supports universal prekindergarten, often by wide margins.⁴⁵ Parents are in favor of prekindergarten programs,⁴⁶ especially after they experience the benefits firsthand.⁴⁷ And business leaders and others in the private sector also have been supportive, readily convinced of the workforce benefits.⁴⁸

In thinking about the New Deal for Children, this experience with increased state support for prekindergarten is both encouraging and sobering. Space limitations in this short Essay do not allow for a full exploration of these lessons, but as the short description indicates, a clear evidence base and broad political support were critical. And consistent with conventional wisdom, universal programs garnered greater public support than programs targeted to low-income families.⁴⁹ To the extent these elements are replicable, it might be possible to launch other elements of the New Deal for Children. On the other hand, increased support for preschool may be exceptional. The New Deal for Children will require much more fundamental change to our society than an extra year of education, and it is telling that the increased support for prekindergarten has not generally led to other kinds of supportive efforts and programs.⁵⁰ One perennial stumbling block is the lack of political support for programs that

43. See, e.g., *id.* at 199–200.

44. Nicholas Kristof, *Oklahoma! Where the Kids Learn Early*, N.Y. TIMES (Nov. 9, 2013), <http://www.nytimes.com/2013/11/10/opinion/sunday/kristof-oklahoma-where-the-kids-learn-early.html> [<https://perma.cc/P9J6-5E5Y>] (quoting Skip Steele, Republican Tulsa City Council member).

45. See KIRP, *supra* note 31, at 159–60.

46. See *id.* at 159, 183–84.

47. See *id.* at 184.

48. See, e.g., *id.* at 76 (describing the workforce benefits of academic achievement).

49. See Theda Skocpol, *Targeting Within Universalism: Politically Viable Policies to Combat Poverty in the United States*, in *THE URBAN UNDERCLASS* 414–27 (Christopher Jencks & Paul E. Peterson eds., 1991); KIRP, *supra* note 31, at 174–79, 188 (describing the debate among political leaders, advocates, and funders about whether to emphasize universal prekindergarten or more targeted programs).

50. But see *id.* at 185–86 (describing how in a few states, prekindergarten has led to greater support for preschool for three-year-olds and also childcare for even younger children).

directly benefit adults rather than children.⁵¹ And it is notable that none of the states emphasized racial equality as a justification for prekindergarten.

In short, although the recent bipartisan support for early childhood education is a welcome change, it likely does not augur a more fundamental approach to inequality. There is much more work to be done, and Professor Dowd's book will be a needed guide for years to come.

51. Programs that work directly with children, such as prekindergarten, are more politically palatable than programs that focus on adults. *See* KIRP, *supra* note 31, at 152. As one example of the antipathy for low-income adults, consider the wide variation in income-eligibility thresholds for adults under Medicaid, with the variation running along political lines and red states covering fewer adults. *See Where Are States Today? Medicaid and CHIP Eligibility Levels for Children, Pregnant Women, and Adults*, KAISER FAM. FOUND. (Mar. 2018), <https://www.kff.org/medicaid/fact-sheet/where-are-states-today-medicaid-and-chip/> [https://perma.cc/C9PC-QXZY]. This lack of investment in adults has implications for children; Medicaid expansion benefits children indirectly by helping parents access drug treatment and services for mental illness. *See* Jessie Cross-Call, *Medicaid Expansion Continues to Benefit State Budgets, Contrary to Critics' Claims*, CTR. ON BUDGET & POL'Y PRIORITIES (Oct. 9, 2018), <https://www.cbpp.org/health/medicaid-expansion-continues-to-benefit-state-budgets-contrary-to-critics-claims> [https://perma.cc/TL9H-QHDJ].